

REMARKS

These remarks are in response to the Office Action mailed September 23, 2003. Claims 3-4 has been canceled without prejudice to Applicants' right to prosecute the canceled subject matter in any divisional, continuation, continuation-in-part, or other application. New claims 36-37 have been added. Support for new claim 36 can be found throughout the specification as filed. No new matter is believed to have been introduced.

I. REJECTION UNDER 35 U.S.C. §102

Claims 1-3 and 32 stand rejected under 35 U.S.C. §102 as allegedly anticipated by White et al. Claim 3 has been canceled, thus the rejection is moot with respect to this claim. Applicants respectfully traverse this rejection.

White et al. do not teach or suggest SEQ ID NO:1 or 2 and therefore cannot anticipate Applicants' claims. Accordingly, the §102 rejection may be withdrawn.

II. REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH

Claim 3 has been canceled without prejudice. Thus, this rejection is moot.

III. REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH

Claims 1-3 and 32 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Claim 3 has been canceled, thus the rejection is moot with respect to this claim. Applicants respectfully traverse this rejection.

Claims 1-2 and 32 do not cover a broad genus but rather structure that has been associated with DNA repair activity. Thus, the rejection may be properly withdrawn.

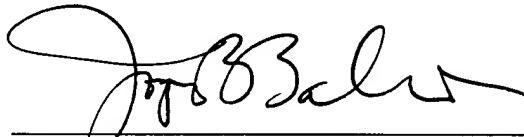
Applicant : Kuramitsu, et al.
Serial No. : 09/938,901
Filed : August 24, 2001
Page : 9 of 9

Attorney's Docket No.: 11283-013001 / PH-1261 US
(FA)

Enclosed is a \$110 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 1/28/04


Joseph R. Baker, Jr.
Reg. No. 40,900

Fish & Richardson P.C.
PTO Customer No. 20985
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

10343263.doc